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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,868	11/26/2003	Kunio Kato	402886	6088

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EXAMINER

PICO, ERIC E

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 11/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/721,868	Applicant(s) KATO ET AL.	
	Examiner Eric Pico	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 October 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/25/2006 has been entered.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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3. Claims 5-10 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7 and 9-18 of copending Application No. 10/395889.

4. **Regarding claim 5 and 8**, copending Application No. 10/395889 claims 7, 12, 14 and 17 discloses an elevator system comprising: a hoisting machine disposed within a hoistway between a wall of the hoistway and a car, when viewed horizontally, wherein the car moves vertically in the hoistway, and the hoisting machine includes a drive sheave facing the wall of the hoistway rotating about an axis, and having respective outer dimensions along and transverse to the axis, the outer dimension along the axis being smaller than the outer dimension transverse to the axis; a fixing member extending vertically from the base member; a mount member supporting the hoisting machine, the mount member being fastened to the fixing member; and a securing member, located on the fixing member between the base member and the mount member, proximate the mount member, and secured to the wall of the hoistway

5. Copending Application No. 10/395889 claims 7, 12, 14 and 17 is silent concerning a base member disposed on the bottom of the hoistway.

6. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a base member to support the hoisting machine.

7. **Regarding claim 6 and 9**, copending Application No. 10/395889 claims 13 and 18 discloses the mount member has a hollow square shape rectangular frame and support sections for supporting the hoisting machine are located at an upper and at a lower portion of the mount member.

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8. **Regarding claim 7 and 10**, copending Application No. 10/395889 claims 11 and 16 discloses the mount member is attached to an upper portion of the fixing member.

9. Copending Application No. 10/395889 claims 11 and 16 is silent concerning the mount member extends upright from a base member, and the base member is provided for standing elevator rails.

10. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide a base member to support the hoisting machine.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim(s) 8-10 is/are rejected under 35 U.S.C. 103(a) as being unpatentable over Wittur WO Publication No. 99/16694 in view of Hiormi et al. JP Publication No. 2000-086126.

13. **Regarding claim 8**, Wittur discloses an elevator comprising: a hoisting machine disposed within a hoistway that has a floor and walls, the hoisting machine being located between a wall of the hoistway and a car 1, wherein the car 1 moves vertically in the hoistway, and the hoisting machine includes a drive sheave, referred to as driving

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disks 7, facing the wall of the hoistway; a base member, not numbered but shown as the ground in Figure 2, on the bottom of the hoistway, on and supported by the floor of the hoistway; a mount member, referred to as mounting frame 6, supporting the hoisting machine; a fixing member, shown as the bottom sections of guide elements 3, 4 in Figure 2, extending vertically within the hoistway between and fastened to the base member and the mount member 6; and a securing member fastened to the fixing member proximate the mount member 6 and fastened to the wall of the hoistway.

14. Wittur is silent concerning a securing member fastened to the fixing member proximate the mount member and fastened to the wall of the hoistway.

15. Hiormi et al. teaches a securing member, referred to as supporting fitting 11, fastened to the wall of the hoistway.

16. It would have been obvious to one of ordinary skill in the art at the time of the invention to fasten the securing member as taught by Hiormi et al. to the fixing member proximate the mount member disclosed by Wittur to secure and support the hoisting machine.

17. **Regarding claim 9**, Wittur is silent concerning the mount member includes a rectangular frame having support section for supporting the hoisting machine at upper and lower portions of the mount member.

18. Hiormi et al. teaches a mount member, referred to as apparatus foundation frame 10 comprised of elements 10a, 10b, 10c, 10d, includes a rectangular frame having support section, referred to as apparatus foundation 10a and reinforcing member 10d,

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for supporting the hoisting machine 6 at upper and lower portions of the mount member 10.

19. It would have been obvious to one of ordinary skill in the art at the time of the invention to include a rectangular frame having support section as taught by Hiormi et al. to the mount member disclosed by Wittur for supporting the hoisting machine at upper and lower portions of the mount member to facilitate mounting and support of the hoisting machine.

20. **Regarding claim 10**, Wittur discloses the mount member 6 extends upright from the fixing member.

Response to Arguments

21. Applicant's arguments with respect to claims 5-7 have been considered but are moot in view of the new ground(s) of rejection on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 7 and 9-18 of copending Application No. 10/395889.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric Pico whose telephone number is 571-272-5589. The examiner can normally be reached on 6:30AM - 3:00PM M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Katherine Matecki can be reached on 571-272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EEP



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